IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

WP(C).No. 2121 of 2007(C)

PETITIONER:

C.V.LASITHA, AGED 35 YEARS,
W/O.KARUNAN, KALABHAVAN, MAMBRAM P.O.
KANNUR DISTRICT.

BY ADV. SRI.P.NARAYANAN

RESPONDENTS:
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1. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF REVENUE, SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE TAHSILDAR, THALASSERY, KANNUR DIST.

3. THE VILLAGE OFFICER, PATHIRIYAD,
THALASSERY, KANNUR DISTRICT.

4. THE KERALA STATE FINANCIAL ENTERPRISES,
THRISSUR, REPRESENTED BYI TS MANAGING DIRECTOR.

5. SUBAIDA T.P.P. THANALOT PUTHIYAPARAMBATH
HOUSE, D/O.MAYANKUTTY, PATHIRIYAD AMSOM,
KELALLUR DESOM, THALASSERY TALUK, KANNUR DISTRICT.

BY ADVS. SRI.RAJU JOSEPH, ADDL.SC.,KSFE LTD.
SRI.K.SHRIHARI RAO --- R5
SMT.N.SHOBHA
SRI.M.L.SAJEEVAN, SC, KSFE LTD.
GOVERNMENT PLEADER SRI. BENJAMIN PAUL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 2121/2007 C

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE SALE DEED DOCUMENT NO. 398/2006 OF ANJARAKANDI SUB REGISTRAR DT. 21/2/2006.

EXT.P1A. COPY OF THE BASIC TAX RECEIPT DT. 15/7/2006.

EXT.P1B. COPY OF THE NON ENCUMBRANCE CERTIFICATE DT. 11/2/2005.

EXT.P1C. COPY OF THE NON ENCUMBRANCE CERTIFICATE DT. 23/2/2006.

EXT.P2. COPY OF THE SALE DEED NO. 937/2001 OF ANJARAKANDY SUB REGISTRY DT. 7/4/2001.

EXT.P2A. COPY OF THE SALE DEED NO. 1395/99 DT. 29/6/99.

EXT.P3. COPY OF THE COMMUNICATION OF THE R2.

EXT.P4. COPY OF THE RELEVANT EXTRACTS FROM THE REVENUE GUIDE 2006.

RESPONDENT'S EXHIBITS NIL.

True copy

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ANTONY DOMINIC,J.

W.P (C) No. 2121 of 2007

Dated this the 27th day of September, 2007

J U D G M E N T

The request made by the petitioner is for the issuance of a possession certificate which was turned down by the respondents as per Ext.P3. The reason stated in Exhibit-P3 is that a recovery action initiated at the instance of Kerala State Financial Enterprises against one of the predecessor's in interest of the petitioner is still pending. In my view, pendency of proceedings or the continuance thereof will not be affected by the issuance of possession certificate. This is only the certificate the person who is in possession of the property and does not determine his right over the same.

In view of this, recovery action against the property cannot be a reason for refusal to the issuance of possession certificate, if the petitioner is otherwise in possession of the property. However, Exhibit-P3 will stand quashed and direct the respondents 2 and 3 to conduct an enquiry and issue certificate to that effect, as expeditiously as possible, at any rate within one month from the date of receipt of a copy of this judgment.

(ANTONY DOMINIC, JUDGE)

ma

K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007